

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

HAROLD CHARLES

Plaintiff,

vs

9:07-CV-1274

NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES, et al.
Defendants.

APPEARANCES:

OF COUNSEL:

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ADRIENNE J. KERWIN, ESQ.
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DAVID N. HURD
United States District Judge

DECISION and ORDER

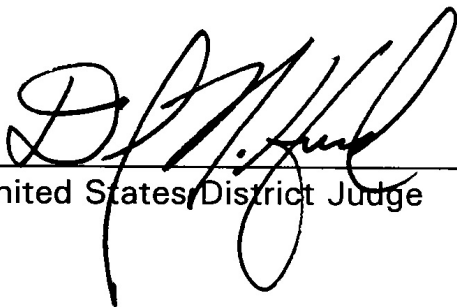
Plaintiff brought this civil rights action pursuant to 42 U.S.C. § 1983. On March 9, 2009, the Honorable Gustave J. DiBianco, United States Magistrate Judge, advised, by Report-Recommendation, that defendants' motion to dismiss be granted in part and denied in part. No objections to the Report-Recommendation were filed.

Based upon a careful review of entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that

1. Defendants' motion to dismiss is GRANTED only to the extent that the complaint can be read to allege an ADA or RA claim in defendants' "individual capacities;"
2. Defendants' motion to dismiss is DENIED in all other respects; and
3. Defendants file and serve an Answer to the Complaint on or before April 14, 2009.

IT IS SO ORDERED.



United States District Judge

Dated: March 31, 2009

Utica, New York.